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U.S. DISTRICT COURT  
OF MASS  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 04-CV-10040 (REK)

INTAC INTERNATIONAL, INC.,  
Plaintiff

v.

ACORP d/b/a ROOTERMAN  
DONALD MACDONALD

Defendants.


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**AFFIDAVIT OF ATTORNEY JOHN J. FLANAGAN IN SUPPORT OF OPPOSITION  
TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

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1. My name is John J. Flanagan of the Law Firm of TORTI FLANAGAN, 146 Main Street, Norfolk, MA 02056 and I am counsel of record, for Plaintiff, Intac International, Inc., in the above referenced matter.
2. Attached hereto as Exhibit A are true copies of affidavits of Daniel J. Restivo, Deanna R. Lyons, and Arthur S. Chadbourne, III prepared in anticipation of Litigation with Defendants. They are offered in Support of Opposition to Summary Judgment.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 2nd DAY OF September, 2004.

  
\_\_\_\_\_  
John J. Flanagan, Esq.

CERTIFICATION

The undersigned forwarded a copy of the within AFFIDAVIT's postage prepaid to William H. McCarter, Jr. Esq. on the 2<sup>nd</sup> dat of September, 2004.

  
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**UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF MASSACHUSETTS**

**Civil Action No. 2003-CV-**

**INTAC INTERNATIONAL, INC.,**  
**Plaintiff**

V.

**ACORP D/B/A ROOTERMAN,  
DONALD MACDONALD,  
Defendants.**

**AFFIDAVIT OF DANIEL J. RESTIVO**

1. My name is Daniel J. Restivo. I am the President of INTAC INTERNATIONAL, INC. (hereinafter "INTAC") the Plaintiff in the above captioned matter.
2. Attached hereto as Exhibit A are true and accurate copies of Acorp/Rooterman franchise owners that have confirmed that they are using WINTAC Software. The confirmations were made to my staff on September 26, 2003 and October 1, 2003.
3. On or about September 18, 1998, Acorp and Donald MacDonald purchased a single user version of INTAC's WINTAC™ Software for \$995. On or about April 15, 1999, INTAC received a US Copyright Registration on WINTAC Software.
4. On or about February 14, 2003, an Acorp/Rooterman franchisee called INTAC for technical support. INTAC determined that the franchisee was not a registered user. That franchisee was Rooterman of North Carolina. The Acorp/Rooterman franchisee informed INTAC that they received the WINTAC software from ACORP as part of the purchase of a Rooterman franchise from Acorp.
5. On or about September 9, 2003 another franchise, namely Rooterman, North Hollywood, CA, called INTAC for technical support for Wintac software. That franchisee, through its agent, one Sam, informed INTAC that it "came with the franchise it bought" from ACORP.
6. On October 1, 2003, INTAC spoke with Pete Romprey of Rooterman, Huntington, CT at 203-468-2008. He confirmed using the WINTAC Software. A log of the telephone calls is annexed as Exhibit B.
7. On September 25, 2003, INTAC spoke with one Sharon at Rooter-Man, Pawtucket, RI at telephone number 888-290-0454. She confirmed the use of WINTAC Software.



**UNITED STATES DISTRICT COURT  
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**Civil Action No. 2003-CV-**

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**v.**

**ACORP D/B/A ROOTERMAN,  
DONALD MACDONALD,  
Defendants.**

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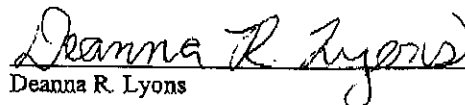
**AFFIDAVIT OF DEANNA R. LYONS**

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1. My name is Deanna R. Lyons. I am an account representative at INTAC INTERNATIONAL, INC. (hereinafter "INTAC") the Plaintiff in the above captioned matter.
2. Attached hereto as Exhibit A are true and accurate copies of Acorp/Rooterman franchise owners that have confirmed that they are using WINTAC Software. The confirmations were made to me, personally on September 26, 2003 and October 1, 2003.
3. On or about September 18, 1998, Acorp and Donald MacDonald purchased a single user version of INTAC's WINTAC™ Software for \$995. On or about April 15, 1999, INTAC received a US Copyright Registration on WINTAC Software.
4. On or about February 14, 2003, an Acorp/Rooterman franchisee called INTAC for technical support. INTAC determined that the franchisee was not a registered user. That franchisee was Rooterman of North Carolina. The Acorp/Rooterman franchisee informed INTAC that they received the WINTAC software from ACORP as part of the purchase of a Rooterman franchise from Acorp.
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6. On October 1, 2003, I spoke with Pete Romprey of Rooterman, Huntington, CT at 203-468-2008. He confirmed using the WINTAC Software. A log of the telephone calls is annexed as Exhibit B.
7. On September 25, 2003, I spoke with one Sharon at Rooter-Man, Pawtucket, RI at telephone number 888-290-0454. She confirmed the use of WINTAC Software.

8. On September 26, 2003, I spoke with Deborah at Rooterman Alpharetta Georgia at telephone number 678-762-1711. She confirmed the use of WINTAC Software.
9. On September 30, 2003, I spoke with Anthony Ficara of Rooterman, Kansas at telephone number 785-448-3444. He confirmed their use of WINTAC Software.
10. On September 26, 2003, I spoke with Mark Owens of Rooterman in Fresno, CA at 559-834-0017. He confirmed their use of WINTAC Software.
11. On September 26, 2003, I spoke to one Terry at Rooterman in Nipomo, California. She confirmed the use of WINTAC Software. Her phone number is 800-633-6966.
12. On October 1, 2003, I spoke with one Sandy at Rooterman in Posen, Illinois who confirmed their use of WINTAC software via telephone number 708-389-6543.
13. None of the parties listed above purchased a license to use WINTAC™ software from INTAC. All confirmed it was part of their Rooterman franchise package from ACorp.
14. Confirmation from users who responded to our questionnaire is annexed as Exhibit C.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 10<sup>TH</sup> DAY OF December, 2003.

  
Deanna R. Lyons

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**Civil Action No. 2003-CV-**

**INTAC INTERNATIONAL, INC.,  
Plaintiff**

**v.**

**ACORP D/B/A ROOTERMAN,  
DONALD MACDONALD,  
Defendants.**

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**AFFIDAVIT OF ARTHUR S. CHADBOURNE, III**

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1. My name is Arthur S. Chadbourne, III. I am the Director of Technical Services at INTAC INTERNATIONAL, INC. (hereinafter "INTAC") the Plaintiff in the above captioned matter.
2. Attached hereto as Exhibit A are true and accurate copies of Acorp/Rooterman franchise owners that have confirmed that they are using WINTAC Software. The confirmations were made on September 26, 2003 and October 1, 2003.
3. On or about September 18, 1998, Acorp and Donald MacDonald purchased a single user version of INTAC's WINTAC™ Software for \$995. On or about April 15, 1999, INTAC received a US Copyright Registration on WINTAC Software.
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Arthur S. Chadbourne, III

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